

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./~~p.m.~~ on March 18, 1985 in room 514-S of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Winter and Yost.

Committee staff present:

Mary Torrence, Office of Revisor of Statutes
Mary Sue Hack, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Jim Clark, Kansas County and District Attorneys Association
Dennis Moore, Johnson County District Attorney
Representative Jayne Aylward
William T. Abbott, Boeing Aircraft
Representative Jerry Friedeman
Brenda Hoyt, Deputy Attorney General
Wayne Morris, Security Benefit Life Insurance Company

House Bill 2452 - Penalties for theft.

Jim Clark, Kansas County and District Attorneys Association, stated his office had requested this bill. He introduced Dennis Moore.

Dennis Moore, Johnson County District Attorney, stated this bill deals with a situation they think has not adequately been addressed. This type of situation is usually employee embezzlement. The bill provides three different classifications of theft, and this gives judges more latitude to deal with very large thefts.

A copy of testimony in support of the bill from Frances Kastner, Kansas Food Dealers' Association, Inc., is attached (See Attachment I).

Substitute for House Bill 2044 - Computer crime and unlawful computer access.

Representative Jayne Aylward, Chairperson of Committee on Communication, Computers and Technology, stated she was present to answer questions from the committee.

William T. Abbott, Boeing Aircraft, appeared in support of the bill. He stated because companies are becoming increasingly dependent on computers, we support legislation to control the unauthorized use and control of computer systems, and to define computer time, proprietary data, and computer programs as property within the meaning of State Theft Statutes. A copy of his testimony is attached (See Attachment II).

Representative Jerry Friedeman explained he had chaired the subcommittee that submitted changes in the bill. He would be available for questions.

Brenda Hoyt, Deputy Attorney General, stated there is a unified theft statute to cover the situation, but they basically have problem of accessing the computer. It is possible invasion of privacy. She said this is an area that needs to be addressed and should be addressed. This bill covers some of the holes in the law that needs to be plugged. Committee discussion with her followed.

Wayne Morris, Security Benefit Life Insurance Company, testified in support of the bill. He stated no current Kansas criminal code appears

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./p.m. on March 18, 1985

Substitute for House Bill 2044 continued

to cover unauthorized computer access, even though such access may cause a substantial injury to a party. We believe it is important to protect Kansans against such injury and to update the law in response to an expanding new technology. A copy of his testimony is attached (See Attachment III).

The hearings on House Bill 2452 and Substitute for House Bill 2044 were concluded.

Substitute for House Bill 2044 - Computer crime and unlawful computer access.

Senator Burke moved to report the bill favorably. Senator Gaines seconded the motion.

Following committee discussion, Senator Burke made a substitute motion to amend the bill in line 89 by removing "and" after "willfully" and inserting a comma; and striking "or" and inserting "and". Senator Gaines seconded the motion. The motion carried.

Senator Burke moved to report the bill favorably as amended. Senator Yost seconded the motion. The motion carried.

House Bill 2452 - Penalties for theft.

Committee requested a fiscal note on the bill.

The meeting adjourned.

Copy of the guest list is attached (See Attachment IV).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: _____

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Thomas F. Sparkman	Box 428 WICHITA, KS 67201	Pizza Hut, Inc
GARY L. OTT	1845 Fairmount Box 98 Wichita, KS 67208	Wichita State University
Mary Pic	Topeka	Interco - FBI's office
PATRICIA HENSHALL	TOPEKA	OJA
PHIL ANDERSON	TOPEKA	BUDGET DIV
Brenda Hoyt	Topeka	AG
Wayne Morris	"	Security Benefit
Janet Wright	"	KCULA
Mike Gorman	Topeka	Ks Railroad Association
ELDON FLOYD	LAWRENCE	CAPITOL FEDERAL
Rep. G. R. FRIEDMAN	GREAT BEND	Nease
Dena Barber	Great Bend	Girl Scout visitor
Louis Stevens	Rt. 1, Box 12 Valley Center, Ks.	Berch Aircraft Corp.
Sue Stevens	" " " "	
Bill Arbo	Wichita	BOEING
Dale Terry	Wichita	Boeing
Ellis Ingle	Wichita	Boeing
Buck Leeson	Wichita	Boeing
Rep. Jayne Crawford	Salina	Legis.
Walt Scott	Topeka	Assoc. Credit Bldg
Michelle Arnold	200 N. Main Spring Hill 66083	Girl Scouts of America
Kim McByrns	253 P Lulu Wichita, KS 67216	Girl Scouts
Glenda Taylor	Route 2 Box 18 Lakin, KS 67860	Girl Scouts
Melinda Eisenhour	408 S. 1 st Bushton KS 67427	Girl Scouts
Debbie Johnson	Rt. 1 Lorraine, KS 67459	Girl Scouts

Attach. IV 3/18/85

3-18-85



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

March 18, 1985

OFFICERS

PRESIDENT
CHUCK MALLORY
Topeka

VICE-PRES., TREASURER
AND SECRETARY
LEONARD MCKINZIE
Overland Park

CHAIRMAN OF THE BOARD
JOE WHITE
Kingman

BOARD OF DIRECTORS

CHARLES BALLOU
Chanute

BOB BAYOUTH
Wichita

DONALD CALL
Cedar Vale

MIKE DONELAN
Colby

JOE ENSLINGER
Wichita

ROY FRIESEN
Syracuse

STAN HAYES
Manhattan

SKIP KLEIER
Carbondale

DELL KLEMA
Russell

BOB MACE
Topeka

JOHN MCKEEVER
Louisburg

J.R. WAYMIRE
Leavenworth

BILL WEST
Abilene

LEROY WHEELER
Winfield

DIRECTOR OF GOVERNMENTAL AFFAIRS

FRANCES KASTNER

SENATE JUDICIARY COMMITTEE

SUPPORTING HB 2452

EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

The Kansas Food Dealers Association has always supported legislation that would in any way help decrease the losses the business communities suffer through theft or bad checks.

Even though we believe the \$3,000 amount is too low for Class D Felony charges, we do believe it is much better than simply having all amounts over \$150 lumped together as Class E.

Most of you will recall that we opposed the change from \$50 to \$150 for bad checks last year and have heard me say that our bad check losses tripled at the time SB 858 of 1984 went into effect. We have seen no statistics to indicate that the prison population decreased because of the increased amount to qualify for a Class E felony. We do know that our bad check losses have increased dramatically.

Anything that the Legislature can do to send a strong message to the criminal element that Kansas has a "get tough policy" we will support. Therefore, we ask your favorable consideration of HB 2452.

Frances Kastner, Director
Governmental Affairs, KFPA

3/18/85 AM
Attch. I

3-18-85

TESTIMONY OF WILLIAM T. ABBOTT
PUBLIC AFFAIRS MANAGER
BOEING MILITARY AIRPLANE COMPANY

H.B. 2044

SENATE JUDICIARY COMMITTEE

MARCH 18, 1985

I represent the Boeing Military Airplane Company in Wichita. We are an airplane and aerospace engineering firm that employees approximately 17,500 employees at our Wichita plant.

I appear today in support of H.B. 2044 that deals with computer crime and unlawfull access to computers.

At our plant the computing equipment is used to design airplanes, process the financial business of the company, store employee records, research and development, and to develop the manufacturing arm of the company. We process various classifications of data which are assets of the company. That data includes military classified, unclassified military, Boeing limited/proprietary, and commercial sensitive. We feel that the language in H.B. 2044 deals with the changing technology of computer science. Proper legislation is needed to discourage unauthorized use and control over computer systems. State Theft Statutes should specify that computer time, proprietary data, and computer programs constitute property.

Existing State Statutes are unfortunately inadequate for prosecution of computer-related crimes, as these four examples show.

Statute 21.3701 - Theft. "Theft is any of the following acts done with the intent to deprive the owner permanently of the possession, use or benefit of the owner's property."

Statute 21.3704 - Theft of Services. Defines services as "includes, but is not limited to, labor, professional service, public utility or transportation service, entertainment and the supplying of equipment for use."

Statute 21.3705 - Unlawful deprivation of property states "with the intent to deprive the owner of the temporary use thereof, without the owner's consent."

Statute 21.3720 - Criminal damage to property, "(a) willfully injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property in which another has an interest without the consent of such person."

As you can see, current state statutes lack specific definitions for the computer environment. For example:

You can take one's property -- data stored on a computer -- without depriving the owners of its use, either permanently or temporarily. If computer data is stolen from a company, in real terms the company still has exactly what it had before. But the value of that data may be lessened.

3/18/85
Attach. II

H.B. 2044
SENATE JUDICIARY COMMITTEE
MARCH 18, 1985

Computer time is a marketable product to a computer company or any computer installation with a company. When we sell a service, a portion of that service is computer time. Unauthorized use of the computer or portions of the computer system decreases the amount of available sellable time.

Data stored on a computer can be maliciously tampered with in such a way that its use is not substantially impaired. That is, data may be altered only slightly so that detection is more difficult to detect and correct. Under present law it could be difficult to define this as criminal damage to property.

Each year, more and more business data is stored on computers, and in the future all business data will be stored on computers. Computing power at the Boeing Military Airplane Company has increased over 1300% over the last five years. Storage capacity has increased over 1900%.

Because companies are becoming increasingly dependent on computers, we support legislation to control the unauthorized use and control of computer systems, and to define computer time, proprietary data, and computer programs as property within the meaning of State Theft Statutes.

I present this information for your consideration and I respectfully urge the Committee to report H.B. 2044 favorable for passage.

Attach. II

STATES WITH COMPUTER CRIME LAWS

ALASKA	MONTANA
ARIZONA	NEVADA
CALIFORNIA	NEW MEXICO
COLORADO	NORTH CAROLINA
CONNECTICUT	NORTH DAKOTA
DELAWARE	OHIO
FLORIDA	OKLAHOMA
GEORGIA	PENNSYLVANIA
HAWAII	RHODE ISLAND
IDAHO	SOUTH DAKOTA
ILLINOIS	TENNESSEE
IOWA	UTAH
MARYLAND	VIRGINIA
MASSACHUSETTS	WASHINGTON
MICHIGAN	WISCONSIN
MINNESOTA	WYOMING
MISSOURI	

3-18-85



Security Benefit Life Insurance Company

A Member of The Security Benefit Group of Companies

Date: March 18, 1985

To: The Honorable Bob Frey, Chairman, and Honorable Members,
Senate Committee on Judiciary

From: Wayne Morris, Assistant Counsel

Re: Sub. for H.B. 2044 -- Computer Crime

Security Benefit Life Insurance Company and the American Council of Life Insurance join in strong support of Substitute for H.B. 2044.

As you know, much of the work done by insurance companies and related financial organizations has become highly computerized and we have become major "high-tech" employers. We believe, however, that current Kansas law does not adequately protect this valuable new technology.

We are particularly concerned about unlawful computer access. Access means any communication with or the use of the resources of a computer. We have all read stories of persons who have gained unauthorized access to sensitive computer files. Unauthorized access may result in the erasure, modification, or duplication of valuable information, costing substantial sums in repair, correction or retrieval.

Even if the unauthorized access does not result in erasure, modification, or duplication of computerized records, the person or company against whom the unauthorized access occurred may have received substantial damage. In the case of an insurance company, such damage could include violations of confidential policyholder records, use of company trade secrets, or the release of valuable company records not otherwise classified as trade secrets. Such unauthorized access might be very difficult to prosecute, however, because of questions such as:

- 1) was the owner permanently deprived of the possession, use or benefit of the owner's property (the terms in the Kansas theft statute, KSA 1984 Supp. 21-3701);
- 2) what was the value of such information or access to information;
- 3) is access to a computer an item of property or service?

In short, no current Kansas criminal code appears to cover unauthorized computer access, even though such access may cause a substantial injury to a party. We believe it is important to protect Kansans against such injury and to update the law in response to an expanding new technology.

I appreciate your consideration and I will be happy to answer any questions you may have.

WM/hyk

3/18/85
Atch. III